

AMENDED IN SENATE MAY 8, 2013
AMENDED IN SENATE APRIL 24, 2013
AMENDED IN SENATE APRIL 10, 2013

SENATE BILL

No. 744

Introduced by Senator Lara

February 22, 2013

An act to amend Sections 1981, 1983, 48660.1, 48662, and 48918 of, to add Sections 1981.5 and 48662.5 to, and to repeal Section 1981.2 of, the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 744, as amended, Lara. Pupils: involuntary transfer: county community schools and community day schools.

(1) Existing law authorizes a county board of education to establish and maintain one or more community schools into which the county board of education may enroll specified pupils, including, but not limited to, pupils who are expelled for specified reasons, referred as the result of the recommendation by a school attendance review board, probation referred, or homeless children.

This bill would revise the list of pupils who may be involuntarily enrolled in a county community school to limit the kind of probation referrals and remove homeless children. The bill would require the consent of the pupil's parent or guardian for the enrollment of a pupil who is referred as the result of a recommendation by a school attendance review board. The bill would allow enrollment of certain other pupils in a county community school with the consent of the pupil's parent or guardian. The bill would authorize, with respect to certain probation

referrals to a county community school, a parent, guardian, or responsible adult to request a hearing from the juvenile court.

(2) Existing law requires a county community school to prescribe an individually planned educational program based on an educational assessment for each pupil. Existing law requires the course of study of a county community school to be adopted by the county board of education to enable each pupil to continue academic work leading to the completion of a regular high school program.

This bill would require an individually planned educational program to include specified services to be provided either at the school or through community organizations.

(3) Existing law authorizes the governing board of a school district to establish one or more community day schools for pupils in any of kindergarten and grades 1 to 12, inclusive. Existing law authorizes the governing board of a school district to assign a pupil to a community day school only if the pupil meets specified conditions, including, but not limited to, being expelled, being referred by a school attendance review board or other district-level referral process, and being probation referred pursuant to specified law.

This bill would revise the list of pupils who may be involuntarily transferred to a community day school to limit the kind of probation referrals. The bill would impose certain conditions on the involuntary transfer of a pupil referred by the school attendance review board. The bill would allow enrollment of certain other pupils in a community day school with the consent of the pupil's parent or guardian. The bill would authorize, with respect to certain probation referrals to a community day school, a parent, guardian, or responsible adult to request a hearing from the juvenile court.

(4) Existing law states the intent of the Legislature that community day schools include specified program components, including, but not limited to, individualized instruction and assessment.

This bill would ~~require~~ *state the intent of the Legislature that, if an individualized instruction and assessment to include specified shows that the pupil requires additional educational services that are not available at the community day school, the parent, guardian, or responsible adult of the pupil should be notified, and would require notification of that the probation officer in that regard relative to a pupil ordered placed in a community day school by court order should also be notified. The bill would require school districts operating community*

day schools to ensure that appropriate services and programs, as provided, are provided to certain pupils, as specified.

(5) This bill would provide a pupil who is involuntarily enrolled in a county community school or a community day school the right to reenroll in his or her former school or another appropriate school immediately after readmission from expulsion or court-ordered placement, and would require the pupil to be informed of that date, thereby imposing a state-mandated local program. The bill would prohibit the pupil from being denied this reenrollment based on his or her failure to comply with any additional criteria imposed by a county board of education or school district beyond the terms of the initial or subsequent expulsion order. The bill would prohibit the county board of education and the school district from adding additional academic or behavioral criteria or conditions that would extend the duration of the placement of a pupil in a county community school or a community day school beyond the terms of the initial or subsequent expulsion order.

(6) Existing law requires the governing board of each school district to establish rules and regulations governing procedures for the expulsion of pupils. Existing law requires expulsion proceedings to be terminated and the pupil to be immediately reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs if a hearing officer or administrative panel decides not to recommend expulsion.

This bill would require that the pupil be permitted to return only to the classroom instructional program from which the expulsion referral was made. The bill would allow a parent, guardian, or responsible adult to request another school placement in writing.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1981 of the Education Code is amended
2 to read:

3 1981. The county board of education may enroll in a county
4 community school pupils who are any of the following:

5 (a) Expelled from a school district for any reason other than
6 those specified in subdivision (a) or (c) of Section 48915.

7 (b) Recommended to attend by a school attendance review board
8 with the written consent of the parent or guardian. No pupil shall
9 be required to attend a county community school based on the
10 recommendation of the school attendance review board. That
11 attendance is voluntary and consent may be rescinded.

12 (c) (1) (A) On probation, with or without the supervision of a
13 probation officer and consistent with an order of a juvenile court,
14 who are considered to be wards of the court under Sections 601
15 and 602 of the Welfare and Institutions Code and ordered placed
16 pursuant to Sections 725, 729.2, and 791 of, and paragraph (2) of
17 subdivision (a) of Section 727 of, the Welfare and Institutions
18 Code.

19 ~~(2)~~

20 (B) Under the supervision of a probation officer, with the
21 consent of the minor and the minor’s parent or guardian, pursuant
22 to Section 654 of the Welfare and Institutions Code.

23 ~~(3)~~

24 (C) Under the supervision of a probation officer pursuant to
25 Section 726 and paragraph (3) of subdivision (a) of Section 727
26 of the Welfare and Institutions Code with the consent of the pupil’s
27 parent, guardian, or responsible adult appointed by the juvenile
28 court to make educational decisions for the pupil. The enrollment
29 of a minor covered by this paragraph in a county community school
30 shall be consistent with paragraph (2) of subdivision (c) of Section
31 726 of the Welfare and Institutions Code, which provides that all
32 educational and school placement decisions shall seek to ensure
33 that the youth is in the least restrictive educational program, has
34 access to the academic resources, services, and extracurricular and
35 enrichment activities that are available to all pupils, and are based
36 on the best interests of the minor.

37 (D) *Unless specifically ordered by a juvenile court, nothing in*
38 *this subdivision shall be construed to conflict with the existing*

1 *rights of a parent, guardian, or responsible adult appointed by*
2 *the juvenile court pursuant to Section 726 of the Welfare and*
3 *Institutions Code to make educational placement decisions for the*
4 *minor.*

5 (E) *A parent, guardian, or responsible adult of a pupil who is*
6 *under the jurisdiction of the juvenile court may, consistent with*
7 *paragraph (2) of subdivision (c) of Section 726 of the Welfare and*
8 *Institutions Code and California Rule of Court 5.651, request a*
9 *hearing with the juvenile court regarding any placement in a*
10 *county community school that removes the pupil from the school*
11 *of origin and notify the juvenile court regarding any placement*
12 *that conflicts with this paragraph, with respect to the parent's,*
13 *guardian's, or responsible adult's right to make a decision to*
14 *enroll or not enroll the pupil in a county community school.*

15 ~~(4)~~

16 (2) On probation or parole and not in attendance at any school,
17 where enrollment is with the consent of the parent, guardian, or
18 responsible adult, or the pupil, if he or she is 18 years of age or
19 older. Nothing in *this* paragraph~~(4)~~ shall impact the provision of
20 services or funding for youth up to 25 years of age pursuant to
21 subdivision (b) of Section 1982.

22 ~~(5)~~

23 (3) Expelled for any of the reasons specified in subdivision (a)
24 or (c) of Section 48915.

25 ~~(6) Unless specifically ordered by a juvenile court, nothing in~~
26 ~~this subdivision shall be construed to conflict with the existing~~
27 ~~rights of a parent, guardian, or responsible adult appointed by the~~
28 ~~juvenile court pursuant to Section 726 of the Welfare and~~
29 ~~Institutions Code to make educational placement decisions for the~~
30 ~~minor.~~

31 ~~(7) A parent, guardian, or responsible adult of a pupil who is~~
32 ~~under the jurisdiction of the juvenile court may, consistent with~~
33 ~~paragraph (2) of subdivision (c) of Section 726 of the Welfare and~~
34 ~~Institutions Code and California Rule of Court 5.651, request a~~
35 ~~hearing with the juvenile court regarding any placement in a county~~
36 ~~community school that removes the pupil from the school of origin~~
37 ~~and notify the juvenile court regarding any placement that conflicts~~
38 ~~with this section, with respect to the parent's, guardian's, or~~
39 ~~responsible adult's right to make a decision to enroll or not enroll~~
40 ~~the pupil in a county community school.~~

1 ~~(8)~~
 2 (4) Enrollment in a county community school pursuant to this
 3 subdivision shall be consistent with Section 48645.5.

4 (d) Pupils whose school districts of attendance have, at the
 5 request of the pupil’s parent, guardian, or responsible adult,
 6 approved the pupil’s enrollment in a county community school,
 7 subject to the following:

8 (1) A pupil shall not be enrolled in a county community school
 9 pursuant to this subdivision unless the school district has made a
 10 finding that the placement will promote the educational interests
 11 of the pupil.

12 (2) A parent, guardian, or responsible adult of a pupil enrolled
 13 in a county community school pursuant to this subdivision may
 14 rescind the request to the placement, and the pupil shall be
 15 immediately reenrolled in the school that the pupil attended at the
 16 time of the referral, or, with the consent of the parent, guardian,
 17 or responsible adult, another appropriate school. The procedures
 18 outlined in subdivisions (b) to (e), inclusive, of Section 51225.2
 19 govern the transfer of credits, records, including special education
 20 records, and grades required pursuant to subdivision (a) of Section
 21 48645.5 and Section 49068 when the pupil transfers to and from
 22 the county community school.

23 SEC. 2. Section 1981.2 of the Education Code is repealed.

24 SEC. 3. Section 1981.5 is added to the Education Code, to
 25 read:

26 1981.5. (a) A pupil who is involuntarily enrolled in a county
 27 community school pursuant to subdivision (a) of, or *subparagraph*
 28 *(A) of* paragraph (1) or ~~(5)~~ *paragraph (3)* of subdivision (c) of,
 29 Section 1981 shall have the right to reenroll in his or her former
 30 school or another appropriate school immediately after readmission
 31 from the expulsion order pursuant to Section 48916 or
 32 court-ordered placement. Upon enrollment in the county
 33 community school, the pupil shall be informed of the date when
 34 he or she may reenroll in his or her former school or another
 35 appropriate school. The procedures outlined in subdivisions (b) to
 36 (e), inclusive, of Section 51225.2 govern the transfer of credits,
 37 records, including special education records, and grades required
 38 pursuant to subdivision (a) of Section 48645.5 and Section 49068
 39 when the pupil transfers to and from the county community school.

1 (b) A pupil shall not be denied reenrollment in his or her former
2 school or another comprehensive school based on the pupil's failure
3 to comply with any additional criteria imposed by a county board
4 of education beyond the terms of the initial order or any subsequent
5 order to expel issued pursuant to Section 48916.

6 (c) The county board of education shall not add additional
7 academic or behavioral criteria or conditions that would extend
8 the duration of the placement of a pupil in a county community
9 school beyond the terms of the initial order or any subsequent
10 order to expel issued pursuant to Section 48916.

11 SEC. 4. Section 1983 of the Education Code is amended to
12 read:

13 1983. (a) Pupils enrolled in county community schools shall
14 be assigned to classes or programs deemed most appropriate for
15 reinforcing or reestablishing educational development.

16 (b) These classes or programs may include, but need not be
17 limited to, basic educational skill development, on-the-job training,
18 school credit recovery assistance, tutorial assistance, and individual
19 guidance activities.

20 (c) To the extent that independent study is determined to satisfy
21 the individually planned education program described in
22 subdivision (d) for a pupil attending a county community school,
23 it shall meet all the requirements of Section 51745 and following,
24 including the requirement that entry into that program is voluntary.

25 (d) An individually planned educational program based upon
26 an educational assessment shall be prescribed for each pupil. If
27 the educational assessment or rehabilitation plan shows that the
28 pupil needs any of the following, the pupil shall be enrolled in or
29 have access to these programs either at the school or through
30 community organizations: counseling, mental health counseling,
31 or other support services, college preparatory and A-G classes,
32 access to services necessary to transition a pupil back to his or her
33 prior school or to another comprehensive school, mediation,
34 conflict resolution, alternative behavior interventions as described
35 in subdivision (b) of Section 48900.5, supplemental services to
36 assist with passage of the high school exit examination, or
37 extracurricular or other enrichment activities. For pupils who are
38 under an expulsion order, nothing in this section is intended to
39 require participation in the school district's extracurricular or other
40 similar programs.

1 (e) The course of study of a county community school shall be
2 adopted by the county board of education and shall enable each
3 pupil to continue academic work leading to the completion of a
4 regular high school program.

5 (f) County boards of education operating county community
6 schools shall ensure that assessments in all areas of suspected
7 disability and appropriate services and programs specified in a
8 pupil’s individualized education program are provided in
9 compliance with all applicable state and federal laws and regulatory
10 provisions.

11 (g) County boards of education operating county community
12 schools shall ensure that appropriate services and programs
13 designed to address the language needs of pupils identified as
14 English learners are provided in compliance with all applicable
15 state and federal laws and regulatory provisions.

16 SEC. 5. Section 48660.1 of the Education Code is amended to
17 read:

18 48660.1. (a) It is the intent of the Legislature that school
19 districts operating community day schools, to the extent possible,
20 include the following program components:

21 (1) School district cooperation with the county office of
22 education, law enforcement, probation, and human services
23 agencies personnel who work with at-risk youth.

24 (2) Low pupil-teacher ratio.

25 (3) Individualized instruction and assessment. *If an*
26 *individualized assessment shows that the pupil requires additional*
27 *educational services, supports, such as mental health counseling,*
28 *or classes, such as college preparatory classes, that are not*
29 *available at the community day school, the parent, guardian, or*
30 *responsible adult of the pupil should be notified. If the pupil has*
31 *been placed pursuant to a court order as described in paragraph*
32 *(2) of subdivision (a) of Section 48662, the probation officer should*
33 *also be notified.*

34 (4) Maximum collaboration with school district support service
35 resources, including, but not limited to, school counselors and
36 psychologists, academic counselors, and pupil discipline personnel.

37 (5) A course of study that enables each pupil to continue
38 academic work leading to the completion of a regular high school
39 program.

1 ~~(b) If an individualized assessment shows that the pupil requires~~
2 ~~additional educational services, supports, such as mental health~~
3 ~~counseling, or classes, such as college preparatory classes, that are~~
4 ~~not available at the community day school, the parent, guardian,~~
5 ~~or responsible adult of the pupil shall be notified. If the pupil has~~
6 ~~been placed pursuant to a court order as described in paragraph~~
7 ~~(2) of subdivision (a) of Section 48662, the probation officer shall~~
8 ~~also be notified.~~

9 (e)

10 (b) For an expelled pupil, if the plan of rehabilitation required
11 pursuant to subdivisions (b) and (c) of Section 48916 requires
12 access to a particular service or program for the pupil to meet its
13 conditions, that service or program shall be made available to the
14 pupil free of cost or the rehabilitation plan shall be amended to
15 remove the condition and reflect that the service or program is not
16 available to the pupil.

17 (d)

18 (c) School districts operating community day schools shall
19 ensure that assessments in all areas of suspected disability and
20 appropriate services and programs specified in a pupil's
21 individualized education program are provided in compliance with
22 all applicable state and federal laws and regulatory provisions.

23 (e)

24 (d) School districts operating community day schools shall
25 ensure that appropriate services and programs designed to address
26 the language needs of pupils identified as English learners are
27 provided in compliance with all applicable state and federal laws
28 and regulatory provisions.

29 SEC. 6. Section 48662 of the Education Code is amended to
30 read:

31 48662. (a) A pupil may be involuntarily transferred to a
32 community day school by a school district only if he or she meets
33 one or more of the following conditions:

34 (1) The pupil is expelled for any reason.

35 (2) The pupil is on probation with or without the supervision
36 of a probation officer and consistent with an order of a juvenile
37 court, and is considered to be a ward of the court under Sections
38 601 and 602 of the Welfare and Institutions Code and is ordered
39 placed pursuant to Sections 725, 729.2, and 791 of, and paragraph

1 (2) of subdivision (a) of Section 727 of, the Welfare and Institutions
2 Code.

3 (3) The pupil is referred by the school attendance review board
4 with the approval of and a finding by the school district that the
5 proposed placement will meet the educational needs of the pupil,
6 including any needs related to the referral to the school attendance
7 review board in the first instance, and that the proposed placement
8 is accessible by the pupil without incurring any transportation costs
9 above and beyond the costs to attend his or her school of residence.
10 The term for an involuntary transfer under this paragraph shall be
11 no longer than the end of the semester following the semester
12 during which the acts leading to the referral occurred, regardless
13 of whether the pupil is successful at the placement, at which time
14 the parent, guardian, or responsible adult may choose whether to
15 continue the pupil's enrollment at the community day school or
16 to return the pupil to the prior school or another appropriate school.
17 If the parent, guardian, or responsible adult has concerns at any
18 time about the appropriateness of the proposed placement, he or
19 she may raise those concerns with the school attendance review
20 board and the school district, and those concerns shall be taken
21 into consideration with regard to whether the placement shall
22 continue.

23 (b) A pupil may be voluntarily transferred to a community day
24 school only if he or she meets one of the following conditions:

25 (1) Under the supervision of a probation officer, with the consent
26 of the minor and the minor's parent or guardian, pursuant to Section
27 654 of the Welfare and Institutions Code.

28 (2) Under the supervision of a probation officer pursuant to
29 Section 726 of, and paragraph (3) of subdivision (a) of Section
30 727 of, the Welfare and Institutions Code with the consent of the
31 pupil's parent, guardian, or responsible adult appointed by the
32 juvenile court to make educational decisions for the pupil. The
33 enrollment of a minor covered by this paragraph in a community
34 day school shall be consistent with paragraph (2) of subdivision
35 (c) of Section 726 of the Welfare and Institutions Code and
36 subdivision (h) of Section 48853, which provide that all educational
37 and school placement decisions shall seek to ensure that the minor
38 is in the least restrictive educational program, has access to the
39 academic resources, services, and extracurricular and enrichment

1 activities that are available to all pupils, and that the decisions are
2 based on the best interests of the minor.

3 (3) The parent or guardian of the pupil has approved or requested
4 the pupil's placement in a community day school. ~~A~~

5 (4) A pupil who is recommended to attend a community day
6 school by a school district shall not be enrolled in a community
7 day school pursuant to this paragraph unless the school district has
8 made a finding that the placement will promote the educational
9 interests of the pupil. The parent, guardian, or responsible adult
10 of a pupil enrolled in a community day school pursuant to this
11 paragraph may rescind the request to the placement, and the pupil
12 shall be immediately reenrolled in the school the pupil attended
13 at the time of the referral, or, with the consent of the parent,
14 guardian, or responsible adult, in another appropriate school.

15 (c) First priority for assignment to a community day school shall
16 be given to a pupil expelled pursuant to subdivision (d) of Section
17 48915, second priority shall be given to pupils expelled for any
18 other reasons, and third priority shall be given for placement to all
19 other pupils pursuant to this section, unless there is an agreement
20 that the county superintendent of schools shall serve any of these
21 pupils.

22 (d) Unless specifically ordered by a juvenile court, nothing in
23 this section shall be construed to conflict with the existing rights
24 of a parent or guardian or responsible adult appointed by the
25 juvenile court pursuant to Section 726 of the Welfare and
26 Institutions Code to make educational placement decisions for the
27 minor.

28 (e) Enrollment in a community day school pursuant to this
29 section shall be consistent with Section 48645.5.

30 (f) With respect to a placement under paragraph (1) or (2) of
31 subdivision (b), a parent, guardian, or responsible adult of a pupil
32 who is under the jurisdiction of the juvenile court may, consistent
33 with paragraph (2) of subdivision (c) of Section 726 of the Welfare
34 and Institutions Code and California Rule of Court 5.651, request
35 a hearing with the juvenile court regarding any placement in a
36 community day school that removes the pupil from the school of
37 origin and notify the juvenile court regarding any placement that
38 conflicts with paragraph (1) or (2) of subdivision (b) with respect
39 to the parent's, guardian's, or responsible adult's right to make a

1 decision to enroll or not to enroll the pupil in a community day
2 school.

3 SEC. 7. Section 48662.5 is added to the Education Code, to
4 read:

5 48662.5. (a) A pupil who is involuntarily enrolled in a
6 community day school shall have the right to reenroll in his or her
7 former school or another comprehensive school immediately after
8 readmission from the expulsion or court-ordered placement
9 pursuant to Section 48916. Upon that involuntary enrollment in
10 the community day school, the pupil shall be informed of the date
11 when he or she may reenroll in his or her former school or another
12 ~~comprehensive~~ *appropriate* school. The procedures outlined in
13 subdivisions (b) to (e), inclusive, of Section 51225.2 govern the
14 transfer of credits, records, including special education records,
15 and grades required pursuant to subdivision (a) of Section 48645.5
16 and Section 49068.

17 (b) A pupil shall not be denied reenrollment in his or her former
18 school or another comprehensive school based on the pupil's failure
19 to comply with any additional criteria imposed by a school district
20 beyond the terms of an initial or subsequent order to expel issued
21 pursuant to Section 48916.

22 (c) The school district shall not add additional academic or
23 behavioral criteria or conditions that would extend the duration of
24 the placement of a pupil in a community day school beyond the
25 terms of an initial or subsequent order to expel issued pursuant to
26 Section 48916.

27 (d) Any school created for the purpose of enrolling pupils that
28 may be assigned to a community day school pursuant to Section
29 48662 shall follow the same procedures for the involuntary transfer
30 of pupils to a community day school set forth in this article.

31 SEC. 8. Section 48918 of the Education Code is amended to
32 read:

33 48918. The governing board of each school district shall
34 establish rules and regulations governing procedures for the
35 expulsion of pupils. These procedures shall include, but are not
36 necessarily limited to, all of the following:

37 (a) (1) The pupil shall be entitled to a hearing to determine
38 whether the pupil should be expelled. An expulsion hearing shall
39 be held within 30 schooldays after the date the principal or the
40 superintendent of schools determines that the pupil has committed

1 any of the acts enumerated in Section 48900, unless the pupil
2 requests, in writing, that the hearing be postponed. The adopted
3 rules and regulations shall specify that the pupil is entitled to at
4 least one postponement of an expulsion hearing, for a period of
5 not more than 30 calendar days. Any additional postponement may
6 be granted at the discretion of the governing board.

7 (2) Within 10 schooldays after the conclusion of the hearing,
8 the governing board shall decide whether to expel the pupil, unless
9 the pupil requests in writing that the decision be postponed. If the
10 hearing is held by a hearing officer or an administrative panel, or
11 if the governing board does not meet on a weekly basis, the
12 governing board shall decide whether to expel the pupil within 40
13 schooldays after the date of the pupil's removal from his or her
14 school of attendance for the incident for which the recommendation
15 for expulsion is made by the principal or the superintendent, unless
16 the pupil requests in writing that the decision be postponed.

17 (3) If compliance by the governing board with the time
18 requirements for the conducting of an expulsion hearing under this
19 subdivision is impracticable during the regular school year, the
20 superintendent of schools or the superintendent's designee may,
21 for good cause, extend the time period for the holding of the
22 expulsion hearing for an additional five schooldays. If compliance
23 by the governing board with the time requirements for the
24 conducting of an expulsion hearing under this subdivision is
25 impractical due to a summer recess of governing board meetings
26 of more than two weeks, the days during the recess period shall
27 not be counted as schooldays in meeting the time requirements.
28 The days not counted as schooldays in meeting the time
29 requirements for an expulsion hearing because of a summer recess
30 of governing board meetings shall not exceed 20 schooldays, as
31 defined in subdivision (c) of Section 48925, and unless the pupil
32 requests in writing that the expulsion hearing be postponed, the
33 hearing shall be held not later than 20 calendar days before the
34 first day of school for the school year. Reasons for the extension
35 of the time for the hearing shall be included as a part of the record
36 at the time the expulsion hearing is conducted. Upon the
37 commencement of the hearing, all matters shall be pursued and
38 conducted with reasonable diligence and shall be concluded without
39 any unnecessary delay.

1 (b) Written notice of the hearing shall be forwarded to the pupil
2 at least 10 calendar days before the date of the hearing. The notice
3 shall include all of the following:

- 4 (1) The date and place of the hearing.
- 5 (2) A statement of the specific facts and charges upon which
6 the proposed expulsion is based.
- 7 (3) A copy of the disciplinary rules of the school district that
8 relate to the alleged violation.
- 9 (4) A notice of the parent, guardian, or pupil’s obligation
10 pursuant to subdivision (b) of Section 48915.1.

11 (5) Notice of the opportunity for the pupil or the pupil’s parent
12 or guardian to appear in person or to be represented by legal
13 counsel or by a nonattorney adviser, to inspect and obtain copies
14 of all documents to be used at the hearing, to confront and question
15 all witnesses who testify at the hearing, to question all other
16 evidence presented, and to present oral and documentary evidence
17 on the pupil’s behalf, including witnesses. In a hearing in which
18 a pupil is alleged to have committed or attempted to commit a
19 sexual assault as specified in subdivision (n) of Section 48900 or
20 committing a sexual battery as defined in subdivision (n) of Section
21 48900, a complaining witness shall be given five days’ notice
22 before being called to testify, and shall be entitled to have up to
23 two adult support persons, including, but not limited to, a parent,
24 guardian, or legal counsel, present during their testimony. Before
25 a complaining witness testifies, support persons shall be
26 admonished that the hearing is confidential. This subdivision shall
27 not preclude the person presiding over an expulsion hearing from
28 removing a support person whom the presiding person finds is
29 disrupting the hearing. If one or both of the support persons is also
30 a witness, the provisions of Section 868.5 of the Penal Code shall
31 be followed for the hearing. This section does not require a pupil
32 or the pupil’s parent or guardian to be represented by legal counsel
33 or by a nonattorney adviser at the hearing.

34 (A) For purposes of this section, “legal counsel” means an
35 attorney or lawyer who is admitted to the practice of law in
36 California and is an active member of the State Bar of California.

37 (B) For purposes of this section, “nonattorney advisor” means
38 an individual who is not an attorney or lawyer, but who is familiar
39 with the facts of the case, and has been selected by the pupil or
40 pupil’s parent or guardian to provide assistance at the hearing.

1 (c) (1) Notwithstanding Section 35145, the governing board
2 shall conduct a hearing to consider the expulsion of a pupil in a
3 session closed to the public, unless the pupil requests, in writing,
4 at least five days before the date of the hearing, that the hearing
5 be conducted at a public meeting. Regardless of whether the
6 expulsion hearing is conducted in a closed or public session, the
7 governing board may meet in closed session for the purpose of
8 deliberating and determining whether the pupil should be expelled.

9 (2) If the governing board or the hearing officer or administrative
10 panel appointed under subdivision (d) to conduct the hearing admits
11 any other person to a closed deliberation session, the parent or
12 guardian of the pupil, the pupil, and the counsel of the pupil also
13 shall be allowed to attend the closed deliberations.

14 (3) If the hearing is to be conducted at a public meeting, and
15 there is a charge of committing or attempting to commit a sexual
16 assault as defined in subdivision (n) of Section 48900 or
17 committing a sexual battery as defined in subdivision (n) of Section
18 48900, a complaining witness shall have the right to have his or
19 her testimony heard in a session closed to the public when
20 testifying at a public meeting would threaten serious psychological
21 harm to the complaining witness and there are no alternative
22 procedures to avoid the threatened harm, including, but not limited
23 to, videotaped deposition or contemporaneous examination in
24 another place communicated to the hearing room by means of
25 closed-circuit television.

26 (d) Instead of conducting an expulsion hearing itself, the
27 governing board may contract with the county hearing officer, or
28 with the Office of Administrative Hearings pursuant to Chapter
29 14 (commencing with Section 27720) of Part 3 of Division 2 of
30 Title 3 of the Government Code and Section 35207, for a hearing
31 officer to conduct the hearing. The governing board may also
32 appoint an impartial administrative panel of three or more
33 certificated persons, none of whom is a member of the board or
34 employed on the staff of the school in which the pupil is enrolled.
35 The hearing shall be conducted in accordance with all of the
36 procedures established under this section.

37 (e) Within three schooldays after the hearing, the hearing officer
38 or administrative panel shall determine whether to recommend the
39 expulsion of the pupil to the governing board. If the hearing officer
40 or administrative panel decides not to recommend expulsion, the

1 expulsion proceedings shall be terminated and the pupil
2 immediately shall be reinstated and permitted to return to the
3 classroom instructional program from which the expulsion referral
4 was made, unless the parent, guardian, or responsible adult of the
5 pupil requests another school placement in writing. Before the
6 placement decision being made by the parent, guardian, or
7 responsible adult, the superintendent of schools or the
8 superintendent's designee may, after consultation with school
9 district personnel, including the pupil's teacher, and the parent,
10 guardian, or responsible adult, recommend one or more school
11 placement options for the pupil in addition to the option to return
12 to his or her classroom instructional program from which the
13 expulsion referral was made. The decision not to recommend
14 expulsion shall be final.

15 (f) (1) If the hearing officer or administrative panel recommends
16 expulsion, findings of fact in support of the recommendation shall
17 be prepared and submitted to the governing board. All findings of
18 fact and recommendations shall be based solely on the evidence
19 adduced at the hearing. If the governing board accepts the
20 recommendation calling for expulsion, acceptance shall be based
21 either upon a review of the findings of fact and recommendations
22 submitted by the hearing officer or panel or upon the results of
23 any supplementary hearing conducted pursuant to this section that
24 the governing board may order.

25 (2) The decision of the governing board to expel a pupil shall
26 be based upon substantial evidence relevant to the charges adduced
27 at the expulsion hearing or hearings. Except as provided in this
28 section, no evidence to expel shall be based solely upon hearsay
29 evidence. The governing board or the hearing officer or
30 administrative panel may, upon a finding that good cause exists,
31 determine that the disclosure of either the identity of a witness or
32 the testimony of that witness at the hearing, or both, would subject
33 the witness to an unreasonable risk of psychological or physical
34 harm. Upon this determination, the testimony of the witness may
35 be presented at the hearing in the form of sworn declarations that
36 shall be examined only by the governing board or the hearing
37 officer or administrative panel. Copies of these sworn declarations,
38 edited to delete the name and identity of the witness, shall be made
39 available to the pupil.

1 (g) A record of the hearing shall be made. The record may be
2 maintained by any means, including electronic recording, so long
3 as a reasonably accurate and complete written transcription of the
4 proceedings can be made.

5 (h) (1) Technical rules of evidence shall not apply to the
6 hearing, but relevant evidence may be admitted and given probative
7 effect only if it is the kind of evidence upon which reasonable
8 persons are accustomed to rely in the conduct of serious affairs.
9 A decision of the governing board to expel shall be supported by
10 substantial evidence showing that the pupil committed any of the
11 acts enumerated in Section 48900.

12 (2) In hearings that include an allegation of committing or
13 attempting to commit a sexual assault as defined in subdivision
14 (n) of Section 48900 or committing a sexual battery as defined in
15 subdivision (n) of Section 48900, evidence of specific instances,
16 of a complaining witness' prior sexual conduct is to be presumed
17 inadmissible and shall not be heard absent a determination by the
18 person conducting the hearing that extraordinary circumstances
19 exist requiring the evidence be heard. Before the person conducting
20 the hearing makes the determination on whether extraordinary
21 circumstances exist requiring that specific instances of a
22 complaining witness' prior sexual conduct be heard, the
23 complaining witness shall be provided notice and an opportunity
24 to present opposition to the introduction of the evidence. In the
25 hearing on the admissibility of the evidence, the complaining
26 witness shall be entitled to be represented by a parent, guardian,
27 legal counsel, or other support person. Reputation or opinion
28 evidence regarding the sexual behavior of the complaining witness
29 is not admissible for any purpose.

30 (i) (1) Before the hearing has commenced, the governing board
31 may issue subpoenas at the request of either the superintendent of
32 schools or the superintendent's designee or the pupil, for the
33 personal appearance of percipient witnesses at the hearing. After
34 the hearing has commenced, the governing board or the hearing
35 officer or administrative panel may, upon request of either the
36 county superintendent of schools or the superintendent's designee
37 or the pupil, issue subpoenas. All subpoenas shall be issued in
38 accordance with Sections 1985, 1985.1, and 1985.2 of the Code
39 of Civil Procedure. Enforcement of subpoenas shall be done in
40 accordance with Section 11455.20 of the Government Code.

1 (2) Any objection raised by the superintendent of schools or the
2 superintendent's designee or the pupil to the issuance of subpoenas
3 may be considered by the governing board in closed session, or in
4 open session, if so requested by the pupil before the meeting. Any
5 decision by the governing board in response to an objection to the
6 issuance of subpoenas shall be final and binding.

7 (3) If the governing board, hearing officer, or administrative
8 panel determines, in accordance with subdivision (f), that a
9 percipient witness would be subject to an unreasonable risk of
10 harm by testifying at the hearing, a subpoena shall not be issued
11 to compel the personal attendance of that witness at the hearing.
12 However, that witness may be compelled to testify by means of a
13 sworn declaration as provided for in subdivision (f).

14 (4) Service of process shall be extended to all parts of the state
15 and shall be served in accordance with Section 1987 of the Code
16 of Civil Procedure. All witnesses appearing pursuant to subpoena,
17 other than the parties or officers or employees of the state or any
18 political subdivision thereof, shall receive fees, and all witnesses
19 appearing pursuant to subpoena, except the parties, shall receive
20 mileage in the same amount and under the same circumstances as
21 prescribed for witnesses in civil actions in a superior court. Fees
22 and mileage shall be paid by the party at whose request the witness
23 is subpoenaed.

24 (j) Whether an expulsion hearing is conducted by the governing
25 board or before a hearing officer or administrative panel, final
26 action to expel a pupil shall be taken only by the governing board
27 in a public session. Written notice of any decision to expel or to
28 suspend the enforcement of an expulsion order during a period of
29 probation shall be sent by the superintendent of schools or his or
30 her designee to the pupil or the pupil's parent or guardian and shall
31 be accompanied by all of the following:

32 (1) Notice of the right to appeal the expulsion to the county
33 board of education.

34 (2) Notice of the education alternative placement to be provided
35 to the pupil during the time of expulsion.

36 (3) Notice of the obligation of the parent, guardian, or pupil
37 under subdivision (b) of Section 48915.1, upon the pupil's
38 enrollment in a new school district, to inform that district of the
39 pupil's expulsion.

1 (k) (1) The governing board shall maintain a record of each
2 expulsion, including the cause for the expulsion. Records of
3 expulsions shall be a nonprivileged, disclosable public record.

4 (2) The expulsion order and the causes for the expulsion shall
5 be recorded in the pupil's mandatory interim record and shall be
6 forwarded to any school in which the pupil subsequently enrolls
7 upon receipt of a request from the admitting school for the pupil's
8 school records.

9 SEC. 9. If the Commission on State Mandates determines that
10 this act contains costs mandated by the state, reimbursement to
11 local agencies and school districts for those costs shall be made
12 pursuant to Part 7 (commencing with Section 17500) of Division
13 4 of Title 2 of the Government Code.

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